

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Criminal Action
	)	No. 13-10200-GAO
	)	
DZHOKHAR A. TSARNAEV, also	)	
known as Jahar Tsarni,	)	
	)	
Defendant.	)	
	)	

BEFORE THE HONORABLE GEORGE A. O'TOOLE, JR.  
UNITED STATES DISTRICT JUDGE

**JURY TRIAL - DAY ONE - P.M. SESSION**

John J. Moakley United States Courthouse  
Jury Assembly Room  
One Courthouse Way  
Boston, Massachusetts 02210  
Monday, January 5, 2015  
1:05 p.m.

Marcia G. Patrisso, RMR, CRR  
Official Court Reporter  
John J. Moakley U.S. Courthouse  
One Courthouse Way, Room 3510  
Boston, Massachusetts 02210  
(617) 737-8728

Mechanical Steno - Computer-Aided Transcript

## 1 APPEARANCES:

## 2 OFFICE OF THE UNITED STATES ATTORNEY

3 By: William D. Weinreb, Aloke Chakravarty and  
4 Nadine Pellegrini, Assistant U.S. Attorneys  
5 John Joseph Moakley Federal Courthouse  
6 Suite 9200  
7 Boston, Massachusetts 02210  
8 On Behalf of the Government

## 9 FEDERAL PUBLIC DEFENDER OFFICE

10 By: Miriam Conrad, William W. Fick and Timothy G. Watkins,  
11 Federal Public Defenders  
12 51 Sleeper Street  
13 Fifth Floor  
14 Boston, Massachusetts 02210  
15 - and -

## 16 CLARKE &amp; RICE, APC

17 By: Judy Clarke, Esq.  
18 1010 Second Avenue  
19 Suite 1800  
20 San Diego, California 92101  
21 - and -

## 22 LAW OFFICE OF DAVID I. BRUCK

23 By: David I. Bruck, Esq.  
24 220 Sydney Lewis Hall  
25 Lexington, Virginia 24450  
On Behalf of the Defendant

P R O C E E D I N G S

THE CLERK: All rise for the Honorable Court.

(The Court enters the jury assembly room at 1:05 p.m.)

THE COURT: You may be seated.

Good afternoon, ladies and gentlemen.

THE JURORS: Good afternoon.

THE COURT: My name is Judge George O'Toole. I'm going to preside over this matter. I want to welcome you to this proceeding of the United States District Court for the District of Massachusetts, and especially to thank you for your presence here today. You are here because you have been summoned to be available for service as a trial juror in this court.

The resolution of legal controversies, both civil and criminal, by trial of the matter before a jury of citizens drawn from the community is one of the most fundamental principles of our entire system of justice. You may recall from your study of American history that among the grievances against King George set the forth in the Declaration of Independence were that he has "obstructed the administration of justice" and "has made judges dependent on his will alone."

Because of their experience in this respect, the founders were determined that the Constitution of the new nation would guarantee the right to trial by jury, and they wrote that guarantee into the Sixth Amendment and Seventh

1 amendments as part of the Bill of Rights. In doing so, they  
2 assured that the outcome of legal cases would ultimately be  
3 entrusted not to officers of the government alone, but rather,  
4 to the public: ordinary citizens convened and acting as trial  
5 jurors.

6 We're about to begin the process of selecting a jury  
7 for a criminal case. The name of the case is *United States v.*  
8 *Dzhokhar Tsarnaev*. Mr. Tsarnaev is charged in connection with  
9 events that occurred near the finish line of the Boston  
10 Marathon on April 15, 2013, and that resulted in the deaths of  
11 three people. Mr. Tsarnaev is also charged with the death of  
12 an MIT police officer and other crimes that occurred on April  
13 18 and 19, 2013.

14 In a criminal prosecution, the burden is always on the  
15 government to prove by factual evidence that the defendant is  
16 guilty of any crime he is accused of. And accordingly, any  
17 defendant is presumed to be not guilty until the government has  
18 proven otherwise at trial. The government bears the burden of  
19 proof, proving the defendant's guilt, beyond a reasonable  
20 doubt.

21 The jury we're about to start selecting today and in  
22 the next several days will have the task of considering the  
23 evidence produced during the trial, and deciding on the basis  
24 of that evidence whether the government has proven the  
25 defendant's guilt of the charges against him beyond a

1 reasonable doubt or not.

2           This case differs from many other criminal cases,  
3 however, in a significant way. Usually after a jury has  
4 convicted a defendant of a crime, the presiding judge decides  
5 what the punishment should be. In this case, however,  
6 Mr. Tsarnaev is accused of crimes that are potentially  
7 punishable by a sentence of death. If, after trial, he's  
8 convicted of any of these crimes, under the law it is the  
9 responsibility of the jury, rather than the judge, to decide  
10 whether Mr. Tsarnaev should be sentenced to death, or instead,  
11 to life imprisonment without possibility of release, the only  
12 other possible sentence for such a crime.

13           In essence, in our democracy we have committed these  
14 solemn and important decisions not to judges answerable to the  
15 sovereign alone, not to the press or to public opinion, and  
16 certainly not to the mob. We have committed this important  
17 duty to ourselves collectively as the people, the people who  
18 established our constitutional order in the first place, and we  
19 the people therefore ask some of our fellow citizens to assume  
20 the high duty of convening as a trial jury and to resolve the  
21 issues presented with a firm disposition and commitment to do  
22 justice fairly and impartially.

23           Accordingly, it is the civic responsibility of every  
24 citizen to appear and serve as a juror when called unless  
25 seriously unable to do so. Such service is both an obligation

1 of citizenship and an opportunity to perform a vital public and  
2 civic function. Juries are composed of citizens from all walks  
3 of life each of whom brings his or her own individual  
4 perspective and life experience to the task. You do not need  
5 any particular education or experience to be a juror, what you  
6 do need is a commitment to do justice.

7 Acknowledging the importance of jury service is not to  
8 ignore the obvious point, that your appearance here is at the  
9 very least inconvenient. We ask jurors to set aside their  
10 usual routines for a time to perform an important and necessary  
11 public service. Certainly, serving on a jury if you're chosen  
12 to serve will require you to make some adjustments in your  
13 life.

14 You should not however think of jury service if you're  
15 chosen to sit on the jury as an annoying burden. Jurors  
16 regularly report to me and my colleagues that they have found  
17 their service as jurors to be one of the most interesting and  
18 memorable experiences of their lives. After most trials, I  
19 meet briefly with jurors to thank them for their service.  
20 Uniformly, during the course of those discussions, jurors tell  
21 me that the experience was worthwhile, interesting and  
22 fundamentally important.

23 Jurors who seem to me to be nervous and unsure at the  
24 beginning of a case after a verdict have a calm and solemn  
25 sense of a duty responsibly performed. If you're chosen to

1 serve in this case, I fully expect you'll find that experience  
2 to be the same.

3 Let me explain how we will proceed with the selection  
4 process. When I finish these rudimentary remarks, a  
5 questionnaire will be distributed to you. You'll fill out the  
6 questionnaire before leaving today. As you fill it out, please  
7 do not discuss the questions or your answers with anyone else  
8 in the room, including the court staff who have been instructed  
9 not to help you with the questionnaires. The information on  
10 the questionnaire must come from you and you alone. Also  
11 please understand that there are no right or wrong answers to  
12 the questions in the form. All we ask is that you answer each  
13 question truthfully and completely to the best of your ability.  
14 Questionnaires are not intended to pry into personal matters  
15 unnecessarily but there are some personal things that we need  
16 to know in order to ensure both sides in this case that the  
17 trial will be conducted before a jury that is in truth fair and  
18 impartial.

19 In addition, as a practical matter, using  
20 questionnaires makes the process less time-consuming and  
21 inconvenient for everyone including you.

22 When you've filled out the questionnaire, you will  
23 give it to a member of the court staff, and you will then be  
24 free to leave. During the coming week, the questionnaires will  
25 be copied and then reviewed by the attorneys working on the

1 case and by me. The completed questionnaire will initially be  
2 reviewed only by participants in this case and by the Court.  
3 The filled out questionnaires will not become part of the  
4 public record unless and until I determine whether they include  
5 any sensitive information that should be kept confidential  
6 permanently. And if they do, I intend to keep that information  
7 and any possible further questioning concerning it from being  
8 available to the public.

9 When you leave, a court staff will give you a  
10 telephone number to call next week so that you may listen to a  
11 prerecorded message that will tell you about your personal  
12 possible service in this case. Some jurors will be told then  
13 that they have been excused permanently, some jurors will be  
14 told then that they should come to court again on a given day  
15 to participate further in the selection process, and some  
16 jurors will be called and told to call back again on another  
17 date for further instructions.

18 If you are selected to serve, the trial proper is  
19 expected to start on or about January 26th, and expected to  
20 last three to four months. The trial will generally be  
21 conducted Monday through Thursday of each week from about 9  
22 a.m. to about 4 p.m. with time for breaks and lunch. The jury  
23 will not ordinarily sit on Fridays except in a week where a  
24 legal holiday is observed on Monday. The trial will continue  
25 through any school vacation week.



1           If you are concerned that service as a juror in this  
2 case would be an unusually difficult hardship for you, you will  
3 have a chance to describe that hardship on the questionnaire.  
4 If you're not excused based on what you've written, which may  
5 happen, I will discuss your hardship in person with you when  
6 you come back to court. Any request to be excused will be  
7 seriously considered; however, I cannot guarantee that you will  
8 necessarily be excused if you think jury service in this case  
9 would be a hardship for you because finding a jury that  
10 represents a fair cross-section of the community will always  
11 pose some degree of hardship for those citizens who are chosen  
12 to serve.

13           It is important that the men and women who are  
14 selected as jurors in this case be able to listen to the  
15 evidence presented in court and decide the issues in the case  
16 fairly and impartially. I'll be using the terms "fairly" and  
17 "impartially" again at times during the selection process. Let  
18 me explain to you what I mean. To serve fairly and impartially  
19 means to base a decision on the evidence presented in court  
20 during the trial, applying the law as I will describe it for  
21 you, and not based on any possible bias or prejudice or  
22 anything that you have seen, heard, read or experienced outside  
23 the courtroom, including anything you may think you have  
24 previously learned from, say, reports in the media.

25           There has been a great deal of publicity about this

1 case and there will continue to be. The mere fact that prior  
2 to this you may have read or heard something about the case  
3 does not automatically mean that you cannot be a juror, but you  
4 must be able to decide the issues in the case based on the  
5 information or evidence that is presented in the course of the  
6 trial and not on information from any other source.

7 The purpose of the jury selection process is to try to  
8 ensure that each person selected is an appropriate juror for  
9 the case, that the jury as a whole will fairly represent the  
10 community, and that the jury will assure that the parties get  
11 what they are entitled to: a trial before a fair and impartial  
12 jury.

13 Now I want to introduce some of the people who will be  
14 involved in the trial of the case. The government is  
15 represented in this trial by Assistant United States Attorneys  
16 Aloke Chakravarty.

17 MR. CHAKRAVARTY: Good afternoon.

18 THE COURT: Nadine Pellegrini and William Weinreb.

19 MR. WEINREB: Good afternoon.

20 (Counsel for the government rise.)

21 THE COURT: In addition, an additional lawyer for the  
22 government, Steven Mellin is unable to be here today but will  
23 join us during the trial.

24 The defendant, Dzhokhar Tsarnaev, is represented by  
25 attorneys David Bruck, Judy Clarke, Miriam Conrad, Bill Fick,

1 and Tim Watkins.

2 (Counsel for the defense rise.)

3 THE COURT: I would also ask Mr. Tsarnaev, the  
4 defendant, to stand.

5 (The defendant complies.)

6 THE COURT: Thank you. You may be seated.

7 Although you have only heard briefly about this case  
8 this morning here -- this afternoon here -- and indeed have  
9 heard no evidence yet, it is extremely important that until  
10 further notice, now that you've been called here, you do not  
11 discuss this case among yourselves or with anyone else. That  
12 is because, as I have said, a jury's verdict must be based on  
13 the evidence produced at trial and you must be free from  
14 outside influence. Therefore, I now order each of you not to  
15 discuss this case with your family, friends or any other  
16 person, until I either excuse you or, if you're selected as a  
17 juror, until the case concludes. This is a court order. A  
18 willful violation of it may be punishable as a contempt of  
19 court or otherwise.

20 You may tell others that you may be a juror in this  
21 case, and you may discuss the schedule with your family and  
22 employer because they are entitled to know when you might not  
23 be available; however, you're not to discuss anything else  
24 about the case or allow anyone to discuss with you anything  
25 about the case until you are either excused, or if you're a

1 juror, until the trial concludes.

2           This means, among other things, you may not speak to  
3 any member of the news media about the case. There's  
4 legitimate public interest in this matter, and the news media  
5 play a vital role in informing the public about it. It would,  
6 however, be improper for you to discuss this case or your role  
7 in it with them. If anyone should ask to speak with you about  
8 the case, you should politely decline. If anyone persists,  
9 please inform the jury clerk or another member of the court  
10 staff promptly.

11           I also instruct you not to read, watch or listen to  
12 any reports about this case in the media until you are either  
13 excused, or if you're selected, until the case concludes. If  
14 you should by chance encounter a news story in the newspaper,  
15 on the radio or television or on the internet, please just turn  
16 the page, change the channel or close the screen. Do not read,  
17 listen to or watch anything related to the case. And do not  
18 under any circumstances do any online research on the case or  
19 anything about anyone who may be connected with it. This  
20 includes Googling or otherwise researching the defendant, any  
21 of the witnesses or the events or any of the trial participants  
22 including the lawyers.

23           Likewise, you must not communicate about this case or  
24 allow anyone to communicate about it with you by telephone,  
25 text message, Skype, email, social media such as Twitter or

1 Facebook. In addition, please do not discuss this case or  
2 anything I have just said, or the questionnaire, with any of  
3 the other potential jurors or anyone else here today.

4 I'm just about finished.

5 Take the time necessary to respond to the  
6 questionnaire thoughtfully, honestly and completely. Again,  
7 remember, there are no right or wrong answers to any of the  
8 questions. Please write or print clearly. Do not fill out the  
9 section of the form that you will see marked "Juror No.\_\_\_\_."  
10 There will be a juror number indication. The court staff will  
11 fill that out for you once you have completed your  
12 questionnaire.

13 If you cannot answer a question because you do not  
14 understand it, write: "Do not understand." If you cannot  
15 answer a question because you do not know the answer, write:  
16 "Do not know." If you want to explain your answer, you may do  
17 so either in the space that is provided after some of the  
18 questions on the questionnaire, or in response to the last  
19 question which gives you additional space to write. If you do  
20 use that additional space, please write the number of the  
21 question you're answering in that space.

22 Please fill out the entire questionnaire. If you  
23 would prefer to answer a sensitive question orally rather than  
24 writing, you may write "private" in response to that question.

25 You will receive two attachments with the

1 questionnaire, A and B. They are lists of potential witnesses  
2 in the case. As you will read when you complete the  
3 questionnaire, you should treat them differently. If you  
4 believe you know someone on Attachment A, you should write the  
5 number of that person that's given on that attachment in  
6 response to the appropriate question on the questionnaire. You  
7 don't have to write the name, just write the number. If, on  
8 the other hand, you believe you know somebody on Attachment B,  
9 you should only circle a person's name on that attachment and  
10 not write the name or anything else in the questionnaire.  
11 Answer that directly on Attachment B.

12 Of course, because your answers are a part of this  
13 vital jury selection process, they must be truthful and you  
14 must sign the questionnaire under the penalty of perjury at the  
15 end.

16 Once you have completed and signed the questionnaire,  
17 you should give it to a member of the court staff. You may not  
18 leave the room with the questionnaire or the two attachments.

19 Let me conclude as I began, by thanking you for being  
20 here this afternoon and for taking part in this important  
21 process. We need your help and we need your honest performance  
22 of this important duty of citizenship.

23 We will now recess this session of the Court and  
24 distribute the questionnaire.

25 THE CLERK: All rise for the Honorable Court.

1 (The Court exits the jury assembly room at 1:25 p.m.)  
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## C E R T I F I C A T E

I, Marcia G. Patrisso, RMR, CRR, Official Reporter of the United States District Court, do hereby certify that the foregoing transcript constitutes, to the best of my skill and ability, a true and accurate transcription of my stenotype notes taken in the matter of Criminal Action No. 13-10200-GAO, United States of America v. Dzhokhar A. Tsarnaev.

/s/ Marcia G. Patrisso  
MARCIA G. PATRISSE, RMR, CRR  
Official Court Reporter

Date: 9/8/15